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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,211	01/02/2004	Tobias Wagner	WM 145	3412

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KLAUS J. BACH & ASSOCIATES  
4407 TWIN OAKS DRIVE  
MURRYSVILLE, PA 15668

EXAMINER

PAPE, JOSEPH

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/751,211

Applicant(s)

WAGNER, TOBIAS

Examiner

Joseph D. Pape

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/2/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rear roof part being "adjacent the rear end" of the vehicle in an open position in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities:

On page 1, it is thought that the reference "DE 320 49" referred to on the second to last line should be —DE 34 20 349— as listed on the 1449. Otherwise, this reference has not been provided and has not been considered.

On page 9, lines 12-24 appear to comprise a duplicate paragraph to that appearing on page 8.

On page 10, line 6, a single parenthesis is used.

On page 11, the second to last line, it is thought that —an—should be added after "in" for greater clarity.

On pages 11 and 12, reference numeral 22 is used for both the "stationary support shaft" and the "pivot axis". It is thought that perhaps reference to the "stationary support shaft 22" is actually the same as the "support pin 24" and should be changed accordingly. Depending upon the correction employed by applicant, drawing changes may be necessary as well.

On page 13, line 20, it is thought that "arms" should be changed to —arm—for greater clarity.

On page 14, line 29, it is thought that "16" should be changed to —6—.

On page 15, line 15, it is thought that "the by" should be changed to —by the—for clarity.

Appropriate correction is required.

3. The abstract of the disclosure is objected to because it contains legal phraseology such as "means" which should be avoided. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

4. Claims 1-20 are objected to because of the following informalities:

Throughout the claims reference numerals in parentheses are sometimes used and sometimes not used. Applicant should modify the claims to be consistent with regards to the use of reference numerals in parentheses. Also, all reference numerals used in the claims must appear in parentheses.

In claim 1, line 14, is thought that ~~—further—~~ should be added after "and" for greater clarity. On line 15, it is thought that ~~—of—~~ should be added after ~~—uncoupling—~~ for greater clarity.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation of a motor vehicle, and the claim also recites "a van, station wagon, or an SUV" which is the narrower statement of the range/limitation. On lines 3-4 and line 6, the phrase "back to said upright rear end" is indefinite in that it is unclear from what the roof extends. On line 5, the phrase "up so said roof" is indefinite in that it is unclear from what the loading opening extends. On line 8, "removable roof cover" has no clear antecedent basis. On lines 10-11, the phrase "at one end thereof" is redundant in that "having one end supported" was already set forth on line 9.

In claims 2-20, line 1, "an" should be changed to —the— for proper antecedent basis.

In claim 8, the last line, "rear roof part pivot axis" has no clear antecedent basis.

In claim 9, line 3, the exact meaning of the phrase "about to the distance" is unclear.

In claim 11, lines 2-3, "section of said coupling lever between the connecting points" and "open position" have no clear antecedent basis.

In claim 12, line 6, "fully open position" has no clear antecedent basis. Also, the phrase "in which ..." should be changed to "at which point " for accuracy and to avoid confusion.

In claim 13, the second to last line, "fully open position" has no clear antecedent basis.

In claim 14, "connecting points" has no clear antecedent basis.

In claim 15, "closed position" has no clear antecedent basis.

In claim 16, line 2, "open position" has no clear antecedent basis. Line 3 is unclear in that two phrases run together in a confusing manner. It is unclear what element of the invention is being referred to by the phrase "front end wall" on line 5. Also, on line 5, the term "between" is used but is only followed by one feature rendering the claim indefinite.

In claims 17 and 18, "open position" has no clear antecedent basis.

In claim 19, the last line infers that the front roof part overlaps the rear roof part which is inaccurate.

***Allowable Subject Matter***

7. Claims 1-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references generally relate to the claimed invention.

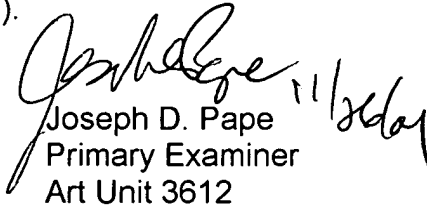
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (703) 308-3426. The examiner can normally be reached on Tues.-Fri. (6:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Joseph D. Pape  
Primary Examiner  
Art Unit 3612

Jdp

November 26, 2004